

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

RAE ANDREACCHIO

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:21-cv-00386-CWR-LGI

KAREN YAX

a/k/a "The Critical Kay"

DEFENDANT

PLAINTIFF'S RESPONSE TO DEFENDANT'S
RULE 12 MOTION TO DISMISS

COMES NOW, Plaintiff RAE ANDREACCHIO, by and through counsel, and files this response in opposition to the Defendant's Rule 12 Submission, *to-wit*:

PROCEDURAL HISTORY

1. Ms. Andreacchio filed her Complaint on June 4, 2021. [Dkt. #1]. Summons was issued upon Ms. Yax that day. [Dkt. #2.] The summons directed Ms. Yax to "serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure" within 21 days of being served.

2. On June 24, 2021, Ms. Yax filed her Answer, *pro se*. [Dkt. 3.] Although Ms. Yax asserts therein that the Court lacks personal jurisdiction over her, she raises no other Rule 12 (b) defense.

3. On August 11, 2021, Ms. Yax filed her Rule 12 Submission, which is a Rule 12(b)(2) motion to dismiss. [Dkt. 6.] Therein, she argues that this Court does not have personal jurisdiction over her. With respect, Plaintiff disagrees.

RELEVANT FACTS

4. Attached is the Declaration of Linda Kingsland. (See Exhibit “A,” which is incorporated herein by reference.) Therein, Ms. Kingsland explains how she viewed and transcribed various videos of the Defendant performing her show, “Critical Kay.” Also attached are selected transcripts in the body of the declaration and a full transcript of one show, which is attached as an exhibit to the Declaration.

5. Attached are the Declarations of the Plaintiff, Rae Andreacchio, and her husband, Richard Todd Andreacchio. (See Exhibits “B” and “C,” incorporated herein by reference.) Therein, Plaintiff deny the allegations of the Defendant.

RESPONSE TO MOTION TO DISMISS

6. Plaintiff rises in opposition to the Defendant’s motion to dismiss for lack of personal jurisdiction for the reasons articulated in the attached memorandum of law, including that (1) the Defendant intentionally committed a tort in this state, that (2) she has purposefully availed herself to the laws of this State, and that (3) she has failed to file a memorandum brief in support of her motion.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays for entry of an order (1) denying the Defendant’s Rule 12 Submission and (2) declaring that this Court has personal jurisdiction over the Defendant. Plaintiff also prays for general relief.

Respectfully submitted this the 23rd day of August 2021.

RAE ANDREACCHIO

By: /s/Matthew Wilson
Matthew Wilson, MSB No. 102344
Attorney for Plaintiff

Prepared by:
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CERTIFICATE OF SERVICE

I, Matthew D. Wilson, do hereby certify that I have served the foregoing
Response to Defendant's Rule 12 Motion to Dismiss, including all exhibits, upon the
following party via U.S. Mail, postage prepaid, and/or email:

Ms. Karen Yax
2442 Lonesome Dove Trail
Lapeer, MI 48466
kaykaydoo2@gmail.com

Respectfully submitted this the 23rd day of August 2021.

By: /s/Matthew Wilson
Matthew Wilson